

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit : 3714  
Examiner : David W. Duffy  
Applicant : Orlando W. Stephenson III  
Appln. No. : 10/810,911  
Filing Date : March 26, 2004  
Confirmation No. : 9439  
For : GAMING MACHINE

EXPERT DECLARATION UNDER 37 USC SECTION 132  
IN SUPPORT OF APPLICATION SERIAL NO. 10/810,911

I, Jason Sprinkle, hereby declare as follows:

1. I presently am Director of Operations for Video Gaming Technology Inc. (hereafter "VGT", see our website [www.vgt.net](http://www.vgt.net)), which makes, buys, and sells gaming machines and related equipment. I have been Director of Operations for 12 years, and have experience as treasurer and as chief operating officer. I also have directed the operations of two other companies related to VGT. I have an intimate knowledge of providing products for the gaming and casino industry, including competitive products and alternative constructions in the industry.
2. My background education includes a Bachelor's degree in electronics from Greenville Technical College, South Carolina, in 1991.
3. I am intimately aware of gaming cabinets available in the industry, and believe myself to be qualified as an expert person skilled in this art.

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4. I note that I have been listed as a co-inventor on several U.S. patents, including 6,423,764; 6,559,216; 6,602,447; 6,835,333; 6,875,811; 6,891,058; and 7,014,797, such that I am generally familiar, as a layman, with patents.
5. I have read and carefully considered the specification, drawings, and claims of the present application serial no. 10/810,911, filed March 25, 2004, entitled GAMING MACHINE, assigned to SPEC International (hereafter referred to as "the SPEC '911 application"). My review included studying the proposed claim amendments in the response attached hereto, as well as the arguments/remarks provided in that response. I have also seen (and purchased) gaming cabinets embodying this invention from SPEC International, the assignee of this application.
6. I have read and studied the present Office Action in regard to the rejection of claims, and read and studied the two documents cited by the Examiner of the Patent Office, i.e., Cole U.S. Patent No. 6,475,087 and Engelman Published Application U.S. 2003/0157978.
7. I note that the present counsel and I have discussed the legal requirement for an Examiner to find that a proposed claim is rendered obvious over prior art, including the adequacy of prior art and the standard for patentability under US patent laws such as 35 U.S.C. §§ 102 and 103.

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8. In my opinion, the present concept of a vertically adjustable cross member on a gaming cabinet door is new, useful, and unobvious. It provides a new door structure with a function that I have not seen in doors of gaming cabinets that existed prior to filing the present application. It solves a long felt need in this industry, . . . that being a gaming cabinet having a door construction with a cross member that is adjustable to accommodate new games without total replacement of the existing door. I was impressed with the significance of this inventive concept when I saw it.

#### STATE OF THE ART

9. The doors of gaming cabinets traditionally have been built like vault doors, with heavy, solid, and integrally-connected, permanently-secured door frame members and cross members. They tend to be expensive and complex. Their vault-like configuration has been an acceptable practice since the internal gaming mechanisms and games/themes were used for long periods, and security in this industry has long been an issue.
10. However, consumers now expect and demand quicker "title changes" (i.e., changes in games), with consumer interest often dropping noticeably after only a few months of use (such as only 6 months). Gaming cabinets built like "vaults" are not able to accommodate this change without great capital expense (and turnover time to make the change) borne by the owner of the gaming cabinet. As the

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owners resist the additional capital investment for new games and cabinets, the existing ones soon become "dribblers" with lower usage and concurrently, lower profits. Concurrently, manufacturers of cabinets have inventory problems from over-production of "out-of-style" gaming cabinets. As manufacturers resist making large inventories of components (doors) since they do not want to manufacture obsolete doors, the delivery times extend out unacceptably in this fast-paced industry. Despite this, I am not aware of anyone addressing this need in the manner stated in the claims of this patent application prior to its filing date. I consider this to fill a long-felt need in this industry, but add that part of it was a lack of recognition of the problem.

#### COMMENT ON CITED PRIOR ART

11. The Office Action cites Cole U.S. Patent No. 6,475,087 in rejecting the claims. The Cole '087 patent discloses a gaming apparatus with a video display mounted to the cabinet's door. However, the Cole '087 patent does not disclose any cross member. The panel 68 (Fig. 3) in the Cole '087 patent is removably held by brackets, but it is not vertically adjustable. Nor is vertical adjustability suggested, in my opinion. Any opaque areas on the panel of Cole are totally different than a cross member as defined, in my opinion, since opaque areas have a very different visual and structural result.

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12. The Office Action also cites Englman published application 2003/0157978 in rejecting the claims. The Englman '978 application discloses a gaming apparatus with a cross member. However, the cross member in the Englman '978 application appears integrally fixed to the door. It has the same problem found in prior art. It would be expensive and impractical to try and cut off the permanently secured cross member in Englman for several reasons. For example, cutting off a permanently secured cross member from a door would be prohibitively expensive due to the time-consuming manually-intensive work required, and would be impractical due to the difficulty in accomplishing a visually-acceptable final product.
13. The Office Action combines the Cole '087 patent and Englman published application 2003/0157978 in rejecting the claims. I respectfully disagree, because neither of them disclose or suggest any structure including any adjustable cross member as defined. Cole does not have any cross member, and Englman's cross member is fixed. To the extent that Cole has a replaceable panel, it still is not vertically adjustable. Further, any opaque area on the panel of Cole is totally different than a cross member with structure, as defined in the present claim, in my opinion.
14. Further in my opinion, it is illogical to combine Cole (which has no cross member) with Englman (which has the problem of a fixed cross member) to reject claim 1

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which recites a totally new adjustable cross member providing a totally new function.

15. In my opinion, it would not be possible for a person of ordinary skill in this art to come up with such a substantial innovation as defined in claim 1, in part due to the prior art in this industry which teaches away from any such innovation, and due in part to the fact that there is no teaching or suggestion of structure to support an adjustable cross member in a gaming cabinet.
16. In my opinion, it is illogical to combine Cole (which has no cross member) with Englman (which has the problem of a fixed cross member) to reject claim 10 which recites a totally new cabinet, a door, a mount attached to the door, and a cross member adjustably engaging the door and attached to the mount in a selected vertical position. This structure supports a totally new function not found in the prior art. In my opinion, it would not be possible for a person of ordinary skill in this art to come up with this, since there is no teaching or suggestion of the arrangement of components, nor the function, to support the adjustable cross member.
17. In my opinion, it would not be possible for a person of ordinary skill in this art to come up with such a substantial innovation as defined in claim 10, in part due to the prior art in this industry which teaches away from any such innovation, and due in part to the fact that there is no teaching or suggestion of structure to support

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an adjustable cross member attached to a mount, where the mount is in turn attached to the door of a gaming cabinet.

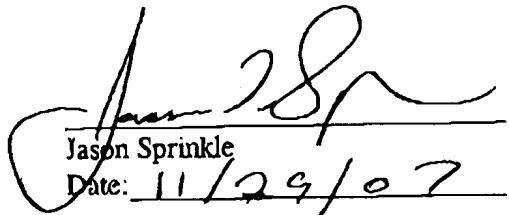
18. In my opinion, there are also several dependent claims that recite structure not disclosed or suggested in Cole and/or Englman. For example, Cole and/or Englman do not disclose or suggest:
  - a. A bezel secured to the door and the cross member secured to the mount (claim 8), in combination with fasteners (claim 1).
  - b. First and second fasteners as defined (claims 19, 24)
  - c. A mount comprising a flat sheet (claims 20, 23)
  - d. Fastener as defined (claim 21)
19. In my opinion, claim 25 should also be patentable because none of the prior art discloses or suggests a cross member attached to attachment structure of a door, with the attachment structure being in the internal space of a cabinet, the cross member being a separate component clamped against an outside of the door and adjustable as defined.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of

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the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issued thereon.

Further I say not.



\_\_\_\_\_  
Jason Sprinkle  
Date: 11/29/07

WITNESS



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Date: 11/29/07